

REMARKS/ARGUMENTS

This letter is responsive to the Office Action dated March 17, 2005.

The applicant submits that no new claim fees are due as a result of this amendment.

In the Office Action, the Examiner has rejected claims 4, 13, and 19 under 35 U.S.C. 112, as being indefinite. The Examiner stated that it is unclear what is meant by the pad having a footprint and an ice-contact surface such that an ice-contact surface area is smaller than the footprint.

In the Office Action, The Examiner has stated that claims 8 and 17 are objected to as being dependant upon a rejected claim base, but would be allowable is rewritten in independent form. The applicant appreciates the Examiner's favourable review. The applicant has recast claim 8 as new claim 21. Claim 21 includes all the features that appear in claim 8. However, several features that appeared in claim 8's base claim, namely claim 1, are not present in claim 21, since they do not appear to be necessary for patentability.

The applicant has amended claims 4, 13, and 19 to remove the language that has been found to be unclear to the Examiner. Accordingly, each of claims 4, 13, and 19 now claim simply that the pad is made of a material having an open structure.

In the Office Action, the Examiner has rejected to claims 1, 3, 9, 11, and 12 under 35 U.S.C. 102(b) as being anticipated by Graff (US 3,990,800).

The Examiner has stated that Graff teaches an ice marking device having a wand and a conduit system (24) for transporting paint, the conduit system (24) defining a passage, wherein the conduit system (24) is configured to provide fluid flow characteristics selected so that when a valve (25) is closed, paint is substantially prevented from flowing through the passage outlet.

Claims 1 and 9 of the application claim a conduit system defining a passage, wherein the passage inlet is fluidically connectable to a paint source outlet. A valve is positioned in association with the paint source, for selectively closing a flow of paint from the paint source outlet. When the valve is closed, the conduit system is configured such that any paint that is present in the passage downstream from the valve is substantially prevented from flowing through the passage outlet.

The applicant submits that Graff does not teach or suggest anything about the flow of paint in the conduit downstream from the valve. In fact, in typical ice painting apparatuses, paint flow continues from paint that remains in the portion of the conduit downstream from the valve, even after the valve is shut off. As a result of being unable to prevent this, the operator of the device has to guess how much more paint will flow after shutting off the valve, and then has to shut off the valve some distance prior to

actually finishing the painting operation, so that the last bit of painting is carried out with paint flowing after the valve is shut off. The reason this is done is to 'use up' the paint in the device downstream from the valve, so that when the operator picks up the device to transport it either off the ice or to another starting point on the ice, the device doesn't drip paint during transport. Some devices position the valve at or near the bottom of the ice painting device to try to reduce the length of conduit that exists downstream of the valve, thereby reducing the amount of paint that will be dispensed by the device after the valve is shut off. This, however, necessitates the use of relatively complex mechanisms to enable the operator to open and close the valve conveniently from a standing position. The applicant notes that a complex mechanism is exactly what is proposed by Graff. The valve placement taught by Graff necessitates the use of a complex mechanism that includes a steel wire 28, a collar, and a pulling ring 30 to bring control of the valve up to a suitable height for convenient actuation by an operator.

By instead configuring the conduit system downstream from the valve to provide fluid flow characteristics (eg. to provide a sufficiently high pressure drop) so that paint flow stops after the valve is closed, as claimed in claims 1 and 9, the operator no longer has to close the valve some unknown distance before the end of the painting operation. Additionally, one would not require the complex valve control mechanism proposed by Graff. The applicant submits that claims 1 and 9 are therefore not anticipated by, and are not obvious in view of, Graff. The applicant submits that claims 3, 11 and 12 are also not anticipated by and are patentable over Graff at least by way of their dependence on claims 1 or 9.

In the Office Action, the Examiner has rejected claims 2, 4-7, 10, 13-16, and 18-20 under 35 U.S.C. 103(a) as being unpatentable over Graff (US 3,990,800).

The applicant repeats and relies on the arguments made above for claims 1 and 9. The applicant submits that claims 2, 4-7, 10 and 13-16 are patentable over Graff at least by way of the dependence on claims 1 or 9.

Furthermore, claims 2 and 10, in particular, claim that the cross-sectional area of the one or more passage outlets is sufficiently small that air is prevented from flowing upstream into the conduit system. The Examiner has conceded that Graff is silent concerning the cross-sectional area of the one or more outlet apertures. The Examiner has stated, however, that it is within the purview of one skilled in the art to make the passage outlet size sufficient so as to control fluid flow therethrough. The Examiner has indicated that one of ordinary skill in the art would make the passage outlet sufficiently small to enable a desired fluid flow of coloring liquid to coat a substantial area of ice.

The applicant submits that the Examiner has not cited any source that provides a basis for suggesting that it is within the purview of one skilled in the art to configure the passage outlet of an ice-painting apparatus to inhibit paint flow after valve shut off. The applicant requests that the Examiner indicate her source.

Appl. No. 10/829,158
Amdt. Dated June 7, 2005
Reply to Office action of March 17, 2005

The applicant submits further that, even if one skilled in the art would make the passage outlet sufficient to provide an acceptable flow therethrough, that is entirely different than adding the feature claimed in claims 2 and 10 that the one or more outlet apertures are sized so that air is prevented from flowing upstream when the valve is shut off.

As a result of the arguments above, the applicant submits that claims 2 and 10 are not obvious and are patentable over Graff.

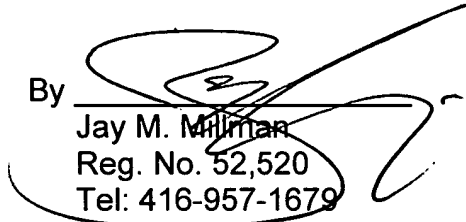
In the Office Action, the Examiner has rejected claims 18-20 under 35 U.S.C. 103(a) as being unpatentable over Kim (US 3,918,820) in addition to rejecting them in view of Graff. The applicant has cancelled claim 18 without prejudice. Additionally, the applicant has amended claims 19 and 20 to depend from new claim 21, which is based on claim 8, which the Examiner has indicated contains patentable subject matter.

The applicant submits that the application is now in condition for allowance, and early allowance and approval are respectfully requested.

Respectfully submitted,

BERESKIN & PARR

By



Jay M. Milman
Reg. No. 52,520
Tel: 416-957-1679